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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,305	08/20/2003	Sandra L. Wood	1756-1	4167

7590

07/13/2004

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EXAMINER

BROWN, MICHAEL A

ART UNIT

PAPER NUMBER

3764

DATE MAILED: 07/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/643,305	WOOD, SANDRA L.	
	Examiner	Art Unit	
	Michael Brown	3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/16/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 7, 9-17 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brisson in view of Helmer.

Brisson discloses in figures 1-2 a body-stroking apparatus comprising a housing 13, having a channel 50, an arm (49 and 51), extending outwardly from the housing a crossbar (56, 59), a sponge 64 attached to the crossbar, translation means (29-31), the arm includes a L-shaped member (49 and 51 form an L-shape in figure 2), a receptacle formed at a top of the L-shaped member (51 has an opening that receives 53) and a rod 53, the crossbar is affixed to the rod (fig. 2), the crossbar includes a clamp 54, a mat 114 and the housing has a flat surface (fig. 1). However, Brisson does not disclose a plurality of flexible members attached to the crossbar. Helmer teaches in figure 1 a body stroking apparatus comprising a plurality of flexible members 1 that are attached to a crossbar 4 which is attached to a rod 6. The flexible members extend downwardly from the crossbar for a distance less than a vertical length of the arm (fig. 1). It would have been obvious to one having ordinary skill in the art at the time that the invention was made that the flexible members as taught by Helmer could be substituted for the

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sponge member disclosed by Brisson because both devices are used to stroke a person's body.

Claims 6 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims above, and further in view of Gary.

Gary teaches in figures 1 a drapery system comprising a rod 40 having a hook and loop material 30 and a curtain 50 having a complimentary hook and loop material 54. It would have been obvious to one having ordinary skill in the art at the time that the invention was made that the hook and loop material as taught by Gary could be used to attach the flexible members to the crossbar in order to be able to remove the flexible members simply by pulling the hook and loop material on the crossbar apart from the hook and loop material on the flexible members.. Helmer provides a teaching that the flexible members can be a curtain or a plurality of flexible members (col. 1, lines 63-65).

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims above, and further in view of Gerlich.

Gerlich teaches in figures 1-3 a body-stroking device comprising a plurality of beaded lines (2, 4). It would have been obvious to one having ordinary skill in the art at the time that the invention was made that the plurality beaded lines as taught by Gerlich could be substituted for the flexible members as taught by Helmer because both devices are used to stroke the body of a patient.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Alimanestiano, Wintoniw, Tarlow, each discloses a body stroking

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device. Pinkalla discloses a curtain having hook and loop material thereon. Although each of these references is pertinent prior art, neither was used to reject any claims, in the first office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Brown whose telephone number is 703-308-2682. The examiner can normally be reached on 5:30 am-4:00 pm Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 703-308-2698. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. Brown
July 1, 2004



MICHAEL A. BROWN
PRIMARY EXAMINER